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March 20, 2009

Re: SB 497

To: Chairman Stoker and Members of the House Judiciary Committee

From: Anita Kuennen, RN, Executive Director for Blue Mountain Clinic in Missoula

Testimony on behalf of Blue Mountain Clinic to oppose SB 497:

BMC opposes the creation of an additional law aimed at health care facilities that further convolutes the existing protection for patients, staff and volunteers entering the facility.

The original Clinic Safety Act or bubble bill, enacted in 2005 is an extension of a Federal law that prohibits obstructing access to clinics, as well as Missoula municipal code that makes it an offense to obstruct any sidewalk, street, avenue or alley, so as to prevent uninterrupted passage.

The current interpretation of the bubble bill is already a challenge for local law enforcement, protestors and those attempting to enter our facility. The addition of SB497 would further complicate a delicate situation that is played out at facilities providing abortion and reproductive health care weekly.

The incident at BMC in September 2007, cited as the core of Rep. Shockley's bill, has been blown out of proportion for the purposes of establishing a premise for this bill. When in fact the incident in question is the only example of a disruption involving protestors and clinic access in the four years since the bubble bill was enacted.

The incident in 07 exhibited a classic violation of the bubble bill that involved a protestor trespassing on clinic grounds, blocking access to the clinic and instigating an escalation. However, local law enforcement did not prosecute under the existing law, but as disorderly conduct. How would further convolution of this bill help to de-escalate the situation that exists?

My intention is not to further a "he said, she said" dialogue on the particular incident invoked as the cause for this bill. I heartily agree with the necessity of loyal oppositionists to obey appropriate rules of conduct, and we enforce this principle at BMC.

The creation of the initial Federal Access to Clinic Entrances, along with the MT Clinic Safety Act, was based out of a long history of violence and harassment of abortion providers, patients and supporters. Over the course of the twenty years that I have worked in this contentious field, I have personally encountered slander, physical intimidation, destruction of personal property and threat of harm. In the last four years this has not been as prominent of an issue in our community, I believe that SB 497 would further escalate the tension between protestors and those attempting to access care, along with increasing the complexity of enforcement issues.

Please oppose SB497.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anita Krueger". The signature is fluid and cursive, with the first name "Anita" written in a larger, more prominent script than the last name "Krueger".

OFFICE OF THE CITY ATTORNEY

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March 20, 2009

RE: Senate Bill 497

Chairman Stoker and Honorable Members of the House Judiciary Committee:

My purpose in writing is to ask you to vote Do Not Pass on Senate Bill 497.

I am a prosecutor and the Assistant City Attorney for the City of Missoula. I have held my position as a prosecutor for the people of the State of Montana for over 20 years.

I am writing to ask you to oppose Senate Bill 497 for three reasons. First, this bill amends a statute in a fashion that is opposite the statute's original purpose. Second, the bill creates a zone of no approach for one type of protestors, not all protestors, in a fashion that will be very difficult for citizens to understand, law enforcement to enforce and prosecutors to prosecute. Third, this is a bill related at most two incidents that occurred within the last 20 years.

First, the statute at issue in Senate Bill 497 is Mont. Code Ann. § 45-8-110 (2007). The obstructing health care facility access bill is the bill that became Mont. Code Ann. § 45-8-110 (2007). It was enacted in 2005 with House Bill 324 (2005). House Bill 324 (2005), stated in its purpose clause "Whereas preventing the knowing obstruction of a person's access to medical counseling and treatment at a health care facility is a matter of statewide concern;..." The purpose of this bill, and statute, was to ensure that people who seek medical care, including abortion, may not be obstructed nor hindered from receiving that care. SB 497 does not assist patients to get health care. Rather, it prohibits anyone from approaching a demonstrator.

Second, under SB 497, patients, volunteers, employees and citizens must stay 8 or more feet away from demonstrators, unless the demonstrator "gives consent". People are allowed access to the health care facility "in order to lawfully enter into or exit from a health care facility", but other than for that purpose, they may not approach within 8 feet of a demonstrator.

What if an employee needs to get to his car? What if a patient wants to talk to a

protestor? What if someone is walking down the street and has no affiliation with anyone? If that citizen walks less than 8 feet from a protestor, they can be charged with a criminal offense. Why?

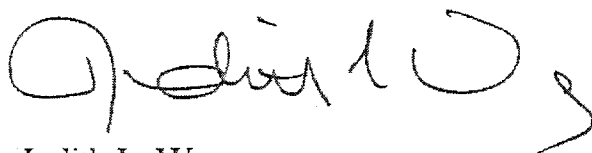
I spoke with two Missoula Peace officers with 36 years of combined experience in law enforcement and asked them about this bill. They had three concerns. One, how will citizens know that this is an offense? Two, how can anyone hold a conversation with someone from greater than 8 feet? Three, how could this bill, if it becomes law, possibly be investigated and enforced?

Finally, Missoula has had at least one, for a while two, health care facilities that provided abortions, in addition to other health care services, during my tenure with the City Attorney's office. I have prosecuted crimes involving major demonstrations of abortion rights protestors. Those offenders blockaded clinic doors, prevented clients from receiving services and entrapped employees in the clinic during the offenses. To the best of my recollection all of the protestors who were charged with criminal offenses at health clinics and pleaded not guilty (90 + criminal offenses) were convicted by juries of all charges, except two. In that time period I can recall only two incidents where a protestor complained that they had been victimized by a clinic employee. Those incidents were investigated by law enforcement and no charges were filed.

Please vote Do Not Pass on S. B. 497.

Sincerely,

OFFICE OF THE CITY ATTORNEY

A handwritten signature in dark ink, appearing to read 'Judith L. Wang', with a stylized flourish at the end.

Judith L. Wang
Assistant City Attorney



Since 1993, seven clinic workers – including three doctors, two clinic employees, a clinic escort, and a security guard – have been murdered in the United States.ⁱ Seventeen attempted murders have also occurred since 1991.ⁱⁱ In fact, opponents of choice have directed more than 5,600 reported acts of violence against abortion providers since 1977, including bombings, arsons, death threats, kidnappings, and assaults, as well as more than 132,000 reported acts of disruption, including bomb threats and harassing calls.ⁱⁱⁱ

Patients are not the perpetrators of violence at clinics.

We have several concerns about SB 497.

1. We are concerned about patients having knowledge of this new law. Most patients that will access abortion care will do so once in their lifetimes. Protestors and clinic staff are very knowledgeable about the federal, state and local regulations around protesting at health care facilities. A patient is not likely to have the same knowledge. We do not want patients feeling threatened or intimidated by protestors for lawfully accessing medical care.
2. We are concerned about the privacy of patients accessing abortion care. If a patient unknowingly invades a protestor's bubble, this protestor can gain access to the patient's name through the investigation of a complaint. Again, we are concerned about intimidation of patients who fear they will lose their privacy.
3. We are concerned this bill will actually increase incidences at clinics rather than protect protesters, clinic staff and patient safety. Local police and county attorneys will be left to sort out who invaded whose "bubble" first. Let's not add to altercations and confusion at clinics.

There is no evidence or history to suggest that protestors are being harmed by patients and clinic staff. We respectfully ask that you vote no on SB 497.

ⁱ NAF's statistics include incidents from both the United States and Canada. NAF derives most of its statistics from its members, most of whom are in the United States. National Abortion Federation (NAF), *NAF Violence and Disruption Statistics: Incidents of Violence & Disruption Against Abortion Providers in the U.S. & Canada* (Aug. 31, 2007); NAF, *Chronological History of Shootings and Murder*.

ⁱⁱ National Abortion Federation (NAF), *NAF Violence and Disruption Statistics: Incidents of Violence & Disruption Against Abortion Providers in the U.S. & Canada* (Aug. 31, 2007).

ⁱⁱⁱ National Abortion Federation (NAF), *NAF Violence and Disruption Statistics: Incidents of Violence & Disruption Against Abortion Providers in the U.S. & Canada* (Aug. 31, 2007).